EVIDENCE—JUDICIAL NOTICE OF PRIVATE STATUTES.—Claim against the county was based upon an act of the state legislature which cured legal defects in the letting of certain contracts by county commissioners. Defendant contended that, as this was a private act, it must be proved. *Held*, judicial notice is taken of all state statutes. *Carroll County v. Reeves Const. Co.* (Ark., 1922), 242 S. W. 821.

The old common law rule which distinguished public and private statutes, permitting judicial notice of the former while denying it in the case of the latter, has generally persisted: *City of Mobile v. L. & N. R. R. Co.*, 124 Ala. 132; *Inhabitants of Town of Butler v. Robinson*, 75 Mo. 192; except where abolished by statues requiring the courts to take judicial notice of all state laws. *Mullan v. State*, 114 Cal. 578; *New York, etc., R. R. Co. v. Offield*, 78 Conn. 1; *Hill v. Tualatin Academy*, 61 Ore. 190. The reason for the rule as laid down by the early writers is that everyone is presumed to know the public law, and, conversely, that no one is presumed to know private acts, and therefore, if the latter were not pleaded and proved the other party would be taken by surprise. BULLER, NISI PRIUS, 225. It is submitted that, as a practical matter, the reason for the distinction has failed, and the decision in the instant case is justifiable. Modern statutory law does not "exist in the memory of all," and a party can inform himself of the private acts of a state as easily as those of a general nature.

EVIDENCE—OPINION BY NON-EXPERT WITNESS AS TO ULTIMATE FACT.—In an action for injury to growing crops from smoke, fumes, and gases from defendant's ore-roasting plant, a witness who had observed plaintiff's crops during the season, but who was not shown to be an expert, testified that in his opinion the damage to the plaintiff's crops was caused by fumes from the defendant's plant. *Held*, the admission of such testimony over objection was reversible error. *Peacock v. Wisconsin Zinc Co.* (Wis., 1922), 188 N. W. 641.

In the course of the opinion, it is stated that a lay witness cannot give expert evidence which covers the ultimate fact to be decided by the jury, but opinion evidence as to ultimate facts may be given by experts. If the court in the principal case means to place its decision on the ground that a witness not found qualified as an expert cannot give expert testimony, the proposition is one with which all authorities agree. So far, however, as there is a suggestion of the ultimate fact as a limit upon the admissibility of the opinion evidence of a lay witness where such evidence is otherwise admissible, the case is not so clear. With regard to expert opinion the tendency is to make no distinction between ultimate and evidential facts. While the authorities are not harmonious, many courts have held that although the opinion is given on the ultimate fact to be found by the jury, this is not *per se* a ground of exclusion. *American Agricultural Chemical Society v. Hogan*, 213 Fed. 416; *Cook v. Doud Sons & Co.*, 147 Wis. 271; *Poole v. Dean*, 152 Mass. 589; *Taylor v. Kidd*, 72 Wash. 18. See also 20 MICH. L. REV. 360, 673. The theory of admissibility being assistance to the jury, there would seem to be no reason for distinguishing the case of a lay wit-